

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/PR/19/0168**

**Re: Property at 2/2 1020 Argyle Street, Glasgow, G3 8LX (“the Property”)**

**Parties:**

**Ms Katherine Downing, 10/7 Hawthorn Grove, Hawthorn, Victoria, 3122, Australia (“the Applicant”)**

**Ms Gurmeet Kaur, 7B Castleton Crescent, Newton Mearns, Glasgow, G77 5JX (“the Respondent”) , together referred to as “the Parties”**

**Tribunal Members:**

**Karen Moore (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined not to make an Order.**

**Background**

1. By application dated 15 January 2019 (“the Application”), the Applicant, made an application to the Tribunal for a payment order in terms of Rule 103 of the Rules for recovery of part of the tenancy deposit lodged by her. A copy of the tenancy agreement between the Parties, a copy of a letter terminating the tenancy and a copy statement from safedepositscotland.com were lodged as part of the Application.
2. On 28 January 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 8 March 2019 at 14.00 at The Glasgow Tribunals Centre, Room 109, 20, York Street, Glasgow, G2 8GT. The CMD was intimated to both Parties and, at the request of the Applicant, was postponed until 21 March 2019 at 10.00, being a more suitable time in respect of both Parties given that the Applicant resides in Australia.

### **Case Management Discussion**

3. The CMD took place on 21 March 2019 at 10.00 by telephone conference. Both Parties were present and unrepresented.
4. I explained to the Parties that the Application is for a Payment Order for the balance of the tenancy deposit of £400.00, which the Applicant asserts was held by the Respondent to account for council tax.
5. The Parties agreed that the Applicant had paid a tenancy deposit of £800.00 and that, at the end of the tenancy, the Respondent had returned £400.00 to the Applicant. The Parties agreed that the balance of £400.00 was to be held by the Respondent to cover the cost of council tax due by the Applicant and in respect of which the local authority might invoice the Respondent.
6. The Applicant explained that the local authority had invoiced her direct for the council tax and that she had paid this amount. The Respondent agreed that the Applicant had paid the council tax and so the Applicant was entitled to payment of the balance of the tenancy deposit of £400.00 and undertook to pay this sum to the Applicant immediately.
7. Given that the Parties agreed that the sum was due and owing by the Respondent to the Applicant and that the Respondent undertook to make immediate payment, I adjourned the CMD for a short time to allow the Respondent to make an online bank transfer to the Applicant's nominated bank account.
8. The CMD resumed and the Parties agreed that payment had been made by the Respondent to the Applicant.

### **Findings in Fact**

9. From the Application and the CMD, I found that a tenancy agreement had existed between the Parties until terminated by the Applicant, that a tenancy deposit of £800.00 had been paid by the Applicant to the Respondent, that only £400.00 had been repaid by the Respondent to the Applicant at the termination of the tenancy, that, at the date of the CMD, £400.00 was due and owing by the Respondent to the Applicant and that this sum had been repaid by the Respondent to the Applicant during the short adjournment.

### **Decision and Reasons for Decision**

10. Having found that the full tenancy deposit had now been paid in full by the Respondent to the Applicant, I determined that no Order was required and so refused the Application.

### **Right of Appeal**

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Karen Moore

**Legal Member/Chair**

21 March 2019

**Date**